

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
BECKLEY DIVISION**

**DOUGIE LESTER, individually and on  
behalf of all others similarly situated,**

**Plaintiff,**

v.

**CIVIL ACTION NO. 5:17-cv-00740  
Honorable Judge Irene C. Berger**

**PAY CAR MINING, INC.,  
BLUESTONE INDUSTRIES, INC.,  
BLUESTONE COAL CORP.,  
KEYSTONE SERVICE INDUSTRIES, INC.  
and MECHEL BLUESTONE, INC.,**

**Defendants.**

**JUDGMENT ORDER**

Pending before the Court are Plaintiffs' Motion to Enforce Settlement (ECF Doc. # 65) and Notice for Entry of Judgment (ECF Doc. # 66). For the reasons set forth herein, the Court ENTERS judgment against the Defendants in the amount of **\$1,270,800.00** as of April 18, 2019, in addition to such further daily penalties as may accrue after this date, in lieu of the legal rate of interest, at the rate of \$1,000.00 per day that each payment to the common fund, class representatives, or class administrator is late, and incorporating by reference the March 7, 2019 Order of this Court, consistent with the agreement of the Parties, as follows:

1. On March 7, 2019, the Court entered a final order (ECF Doc. # 63) ("March 7 Order") setting forth and approving the terms of the settlement in this case.
2. The Defendants have failed to make complete payments according to the schedule agreed upon by the Parties and adopted in the March 7 Order and set forth in the Plaintiff's Notice for Entry of Judgment (ECF Doc. # 66).

3. On March 28, 2019, the Defendants expressed their agreement to the judgment offered and proposed by the Plaintiffs in this matter in the Notice for Entry of Judgment (ECF Doc. # 66).

4. As of March 29, 2019, the Defendants had failed to pay \$230,800.00 that was then due. (*See* ECF Doc. # 65) (calculating arrearages)

5. Pursuant to the terms of the final settlement, the Defendants are also due to make additional payments of \$333,333.33 on or before August 31, 2019, \$333,333.33 due on or before February 28, 2020, and \$333,333.34 on or before April 30, 2020 by cashier's checks to Mountain State Justice as class administrator, for conveyance to the class counsel and class members in accordance with the Mediated Settlement Agreement (ECF Doc. # 61-1) and March 7 Order (ECF Doc. # 63).

6. Daily penalties of \$1,000.00 per day continued to be assessed as to each additional day that each payment is late to the common fund, class representatives, or class administrator under the approved settlement.

7. As of April 18, 2019, the total sums outstanding under the settlement were **\$270,800.00 due immediately, \$333,333.33 due on or before August 31, 2019, \$333,333.33 due on or before February 28, 2020, and \$333,333.34 due on or before April 30, 2020**, in addition to any further daily penalties assessed based on late payments.

**WHEREFORE**, for the foregoing reasons, the Court **ENTERS** judgment for all sums due under the March 7 Order and by order of this Court, **totaling \$1,270,800.00** as of April 18, 2019, in addition to such further daily penalties as may accrue thereafter at the rate of \$1,000.00 per day that each payment continues to be late. The Court further **ORDERS** that all pending motions be **TERMINATED AS MOOT**.

The Court **DIRECTS** the Clerk to send a certified copy of this Order to counsel of record and to any unrepresented party.

ENTERED: April 18, 2019

  
IRENE C. BERGER  
UNITED STATES DISTRICT JUDGE  
SOUTHERN DISTRICT OF WEST VIRGINIA

Prepared by:

/s/ Samuel B. Petsonk

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